

Inspector General

United States

Department of Defense



U.S. Army Corps of Engineers,
Huntington District, Complied With
The American Recovery and Reinvestment Act

Report Documentation Page			<i>Form Approved OMB No. 0704-0188</i>	
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1. REPORT DATE 30 SEP 2010	2. REPORT TYPE	3. DATES COVERED 00-00-2010 to 00-00-2010		
4. TITLE AND SUBTITLE U.S. Army Corps of Engineers, Huntington District, Complied With The American Recovery and Reinvestment Act				
5a. CONTRACT NUMBER				
5b. GRANT NUMBER				
5c. PROGRAM ELEMENT NUMBER				
6. AUTHOR(S)				
5d. PROJECT NUMBER				
5e. TASK NUMBER				
5f. WORK UNIT NUMBER				
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Department of Defense Inspector General,400 Army Navy Drive,Arlington,VA,22202				
8. PERFORMING ORGANIZATION REPORT NUMBER				
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				
10. SPONSOR/MONITOR'S ACRONYM(S)				
11. SPONSOR/MONITOR'S REPORT NUMBER(S)				
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited				
13. SUPPLEMENTARY NOTES				
14. ABSTRACT				
15. SUBJECT TERMS				
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 22
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified	19a. NAME OF RESPONSIBLE PERSON	

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Acronyms and Abbreviations

FAR	Federal Acquisition Regulation
FBO	Federal Business Opportunities
FPDS	Federal Procurement Data System
IDIQ	Indefinite-Delivery, Indefinite-Quantity
OMB	Office of Management and Budget
QMAD	Quantitative Methods and Analysis Division
USACE	U.S. Army Corps of Engineers



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

September 30, 2010

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF
ENGINEERS
COMMANDER, U.S. ARMY CORPS OF ENGINEERS,
HUNTINGTON DISTRICT

SUBJECT: U.S. Army Corps of Engineers, Huntington District, Complied with
the American Recovery and Reinvestment Act
(Memorandum No. D2010-RAM-027)

We are providing this memorandum for your information and use. This memorandum provides results from our audit of selected American Recovery and Reinvestment Act projects at the U.S. Army Corps of Engineers, Huntington District. We performed this audit in response to the requirements of Public Law 111-5, "American Recovery and Reinvestment Act of 2009." We are making no recommendations and do not require a written response. Therefore, we are publishing this memorandum in final form.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 601-5868.

Patricia A. Marsh
Patricia A. Marsh, CPA
Assistant Inspector General
Defense Business Operations



Results in Brief: U.S. Army Corps of Engineers, Huntington District Complied With the American Recovery and Reinvestment Act

What We Did

Our objective was to determine whether the U.S. Army Corps of Engineers, Huntington District (USACE Huntington) implemented Public Law 111-5, "American Recovery and Reinvestment Act of 2009," (Recovery Act), February 17, 2009, in accordance with the requirements in the Act and the Office of Management and Budget (OMB) Memorandum M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 3, 2009. Specifically, our objective was to assess the planning, funding, initial execution, and tracking and reporting of Recovery Act projects to ensure that USACE Huntington District's efforts facilitated accountability and transparency.

We made a nonstatistical selection of three projects at USACE Huntington for review: one project at Bluestone Dam, WV, and two projects at Muskingum River Lakes, OH.

Figure 1: Bluestone Dam, WV



Source: USACE Web site

What We Found

USACE Huntington complied with the Recovery Act requirements for the three projects reviewed. Planning, funding, initial execution, and tracking and reporting controls were in place. Specifically, the Huntington District:

- properly planned the selection of the three Recovery Act projects;
- tracked and distributed Recovery Act funds promptly;
- adequately performed initial execution by including contract clauses in accordance with Federal Acquisition Regulations and OMB guidance for Recovery Act projects;
- transparently disclosed pre-solicitations for the three projects on the Federal Business Opportunities Web site and the Federal Procurement Data System in accordance with OMB guidance for Recovery Act projects; and
- ensured contractors properly tracked and reported required information in accordance with OMB guidance.

What We Recommend

This memorandum contains no recommendations.

Management Comments

We considered USACE comments to a discussion draft in preparing this report.

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Introduction

Objective

Our objective was to determine whether the U.S. Army Corps of Engineers (USACE), Huntington District implemented Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” (Recovery Act), February 17, 2009, in accordance with the requirements in the Act and the Office of Management and Budget (OMB) Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009. Specifically, our objective was to assess the planning, funding, initial execution, and tracking and reporting of Recovery Act projects to ensure that USACE Huntington District’s efforts facilitated accountability and transparency for the selected projects reviewed for this audit. See Appendix A for a discussion of our scope and methodology.

Recovery Act Background

In passing the Recovery Act, Congress provided supplemental appropriations to preserve and create jobs; promote economic recovery; assist those most affected by the recession; provide investments to increase economic efficiency through technological advances in science and health; and invest in transportation, environmental protection, and other infrastructure. The Recovery Act also provided unprecedented efforts to ensure the responsible distribution of funds for the Act’s purposes and to provide transparency and accountability of expenditures so that the public would know how, when, and where tax dollars were spent. Further, the Recovery Act stated that the President and the heads of Federal departments and agencies were to manage and expend the funds made available in the Act to achieve its purpose, which included commencing expenditures for activities as quickly as possible, consistent with prudent management.

Recovery Act Audit Requirements

The Recovery Act and implementing OMB guidance require projects to be monitored and reviewed. We grouped these requirements into the following four phases: (1) planning, (2) funding, (3) execution, and (4) tracking and reporting. The Recovery Act requires that projects be properly planned to ensure the appropriate use of funds. Review of the funding phase is to ensure the funds were distributed in a prompt, fair, and reasonable manner. Review of the project execution phase is to ensure that contracts awarded with Recovery Act funds were transparent, competed, and contained specific Federal Acquisition Regulation (FAR) clauses; that Recovery Act funds were used for authorized purposes; and that instances of fraud, waste, error, and abuse were mitigated. Review of the execution phase also ensures that program goals were achieved, including specific program outcomes and improved results on broader economic indicators; that projects funded avoided unnecessary delays and cost overruns; and that contractors or recipients of funds reported results. Review of the tracking and reporting phase ensures that the recipients’ use of funds was transparent to the public and that benefits of the funds were clearly, accurately, and timely reported.

Recovery Act Contracting Requirements

The Recovery Act establishes transparency and accountability requirements. Federal Acquisition Circular 2005-32, March 31, 2009, provides policies and procedures for the Government-wide implementation of the Recovery Act and guidance on special contract provisions. Federal Acquisition Circular 2005-32 amended the FAR and provided interim rules that made FAR solicitation provisions and contract clauses immediately available for inclusion in contracts for Recovery Act work.

The specific FAR Recovery Act requirements are for:

- buying American construction material,
- protecting contractor whistleblowers,
- publicizing contract actions,
- reporting, and
- giving the Government Accountability Office and agency Inspectors General access to contracting records.

Federal Government organizations meet requirements for Recovery Act contract actions by posting information on the Federal Business Opportunities (FBO) and Federal Procurement Data System (FPDS) Web sites. FAR Subpart 5.7, “Publicizing Requirements Under the American Recovery and Reinvestment Act of 2009,” directs contracting officers to use the Government-wide FBO Web site (<http://www.fbo.gov>) to:

- identify the action as funded by the Recovery Act,
- post pre-award notices for orders exceeding \$25,000,
- describe supplies in a clear narrative to the general public, and
- provide the rationale for awarding any contracting actions that were not both fixed-price and competitive.

FBO is the Federal Government’s central source of Federal procurement opportunities. FBO is a Web-based portal that allows agency officials to post Federal procurement opportunities and contractors to search and review those opportunities. Agencies also post contract award notices on FBO. In addition, to provide transparency, FBO has a separate section identifying Recovery Act opportunities and awards.

FPDS is the Federal Government’s central source of procurement information. Contracting officers enter information, to include the Treasury Account Symbol, in the FPDS for all Recovery Act contract actions. The Treasury Account Symbol enables FPDS to provide transparency by generating and posting a report containing all Recovery Act contract actions.

OMB Recovery Act Guidance

Criteria for planning and implementing the Recovery Act continue to change as OMB issues additional guidance, and DOD and the Components issue their implementation guidance. OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009, provides Government-wide guidance for carrying out programs and activities enacted in the Recovery Act. The guidance states that the President’s commitment is to ensure that public funds are expended responsibly and in a transparent manner to further job creation, economic recovery, and other purposes of the Recovery Act. OMB Memorandum M-09-15 also requires contracting personnel to include appropriate clauses of the FAR in their contract actions. See Appendix B for Recovery Act criteria and guidance.

USACE Recovery Act Funded Appropriations

Under the Recovery Act, Congress appropriated \$4.6 billion to USACE for Investigations, Construction, Operations and Maintenance, Regulatory Program, Formerly Utilized Sites Remedial Action Program, and Mississippi River and Tributaries. Table 1 provides a breakdown of the amount of Recovery Act funds provided for each appropriation.

Table. USACE Recovery Act Civil Works Programs

Appropriations	Amount (millions)
Operations and Maintenance	\$2,075
Construction	2,000
Mississippi River and Tributaries	375
Formerly Utilized Sites Remedial Action Program	100
Investigations	25
Regulatory	25
Total	\$4,600

USACE Mission and Functions

USACE, Civil Works, provide public engineering services in peace and war to strengthen our Nation's security, energize the economy, and reduce risks from disasters.

Specifically, USACE, Civil Works, (1) contribute to the national welfare and serve the nation with quality, responsive development and management of the nation's water resources, (2) protect, restore, and manage the environment, (3) respond to disasters and aid in recovery, and (4) provide engineering and technical services. This multi-faceted mission is accomplished in an environmentally sustainable, economically, and technically sound manner through partnerships with other government agencies and nongovernment organizations. USACE, Civil Works, executes its programs through eight regional divisions and 38 district offices. There is a ninth division and three embedded districts that support operations in Iraq and Afghanistan. This report discusses Recovery Act projects at USACE Huntington.

Selected Projects at USACE Huntington

We made a nonstatistical selection of one project at Bluestone Dam, WV, Bluestone Dam; and two projects at Muskingum River Lakes, OH, Zoar Levee Pump Station, and Beach City Dam. These projects included four contract modifications and two task orders.

- **Bluestone Dam, WV:** Bluestone Dam was completed in 1949 and was built for flood control. The dam modifications include stability improvements such as installation of post tensioning high strength steel anchors at the downstream dam face. These modifications will increase dam stability and provide an appreciable increase in the flood storage capacity.
- **Zoar Levee Pump Station, OH:** The Zoar Levee Pump Station is a part of the Dover Dam Complex. The Dover Dam Complex was completed in 1937 and is used for flood control. The Recovery Act work at Zoar Levee Pump Station included the installation of an additional pump and a backup generator.
- **Beach City Dam, OH:** Beach City Dam was completed in 1936 and was built primarily for flood control. Recovery Act work at Beach City Dam included the addition of stone slope dam protection. The stone (rip rap)¹ is designed to prevent erosion, reduce the risk of failure, and reduce future maintenance costs.

Internal Controls on Recovery Act Projects

USACE Huntington District internal controls over the planning, funding, initial execution, and tracking and reporting of the three Recovery Act projects reviewed were effective as they applied to the audit objectives. We identified no internal control weaknesses.

¹ Rip rap is graded stone or crushed rock used in the stabilization of stream banks or shorelines.

USACE Huntington District Properly Executed Initial Recovery Act Project Requirements

USACE Huntington complied with the Recovery Act requirements for the three projects we reviewed. Specifically, USACE Huntington properly planned, funded, and initially executed the projects reviewed. USACE Huntington had procedures in place to ensure that contractors properly tracked and reported required information.

USACE Huntington Complied with the Recovery Act

USACE Huntington personnel complied with the following OMB guidance on planning, tracking and distributing funds, including mandatory contract clauses in Recovery Act projects and posting contracts on the Web.

- **Proper Planning.** USACE Huntington personnel selected work for the three Recovery Act projects in accordance with OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009. OMB Memorandum M-09-15 states that departments and agencies should support projects that have a demonstrated or potential ability to achieve long-term public benefits by investing in an improved quality of life, environmental protection, and other infrastructure that will provide long-term economic benefits. USACE Huntington personnel selected Bluestone Dam, WV to increase dam stability and flood storage capacity to reduce the risk of dam failure; Zoar Levee Pump Station, OH to reduce flooding risk to the public; and the Beach City Dam, OH project to reduce future maintenance costs and the risk of dam failure. The purpose of these projects was to provide improved quality of life, support environmental protection, and infrastructure that provide long-term economic benefits.
- **Proper Funding.** USACE Huntington tracked and distributed funds in accordance with OMB Memorandum M-09-15. The memorandum, states that funds are to be awarded and distributed in a prompt, fair, and reasonable manner. USACE Huntington appropriately designated and distributed Recovery Act funds for the applicable products and services in its accounting system as well as in the contract solicitations and awards. We reviewed funding authorization documents and confirmed that Recovery Act funds were transferred from USACE Headquarters to USACE Huntington, and the funds were properly distributed to the Bluestone Dam, WV; Zoar Levee Pump Station, OH; and Beach City Dam, OH projects.

OMB Memorandum M-09-15 also states that agencies must not co-mingle Recovery Act funds with other funds. Further OMB Memorandum M-09-15 states that agencies must establish an internal fund code within their financial systems and separately track apportionments, allotments, obligations, and gross outlays to Recovery Act funds. The funding authorization documents reviewed

included the funding amounts for the projects and each funding amount had a Recovery Act designation. In addition, all task orders specified which products or services were funded under the Recovery Act. These controls enabled USACE Huntington personnel to appropriately track the Recovery Act funding documents and project solicitations or contracts.

- ***Initial Project Execution.*** USACE Huntington adequately performed initial execution of Recovery Act projects. The Recovery Act projects contained required FAR clauses and were posted to the appropriate websites to facilitate transparency. USACE Huntington included FAR clauses required for Recovery Act contracts in the four contract modifications and two task orders we reviewed related to the Bluestone Dam, WV; Zoar Levee Pump Station, OH; and the Beach City Dam, OH projects. The revised FAR requires agencies to include contact clauses such as Buy American Requirements for Construction Material and Whistleblower Protections. For a complete list of required FAR clause we reviewed, see Appendix C.

USACE Huntington generally posted pre-solicitations to the FBO (www.fedbizopps.gov) and FPDS (www.fpdss.gov) Web sites in accordance with OMB requirements. With one exception the FBO postings for the three projects, where applicable, included clear and unambiguous information to the general public describing services needed. One of the FBO pre-solicitation postings did not have an adequate description. Specifically, the synopsis did not describe the work to be performed. USACE Huntington updated the synopsis when explicit guidance was issued.

- ***Proper Tracking and Reporting.*** USACE Huntington had procedures in place to ensure that contractors properly tracked and reported required information in accordance with OMB Memorandum M-09-15. Specifically, USACE Huntington contracting officers monitored contractors' input to ensure that required information for the Federal Reporting Web site (<http://www.federalreporting.gov>) was posted in accordance with OMB Memorandum M-09-15. OMB Memorandum M-09-15 requires contractors to post information on federalreporting.gov regarding the funding agency, awarding agency, and project information for Recovery Act projects. We reviewed the most recent quarterly reports posted by contractors for the Blue Stone Dam and the Muskingum River Lakes projects. We determined that the contractors reported the funding agency, the awarding agency, project status, the amount of ARRA funds received or invoiced, and the number of jobs created for the three projects we reviewed.

Summary

USACE Huntington complied with the Recovery Act requirements for the three projects we reviewed. USACE Huntington properly planned, funded, and initially executed the projects reviewed. USACE Huntington also had procedures in place to ensure that contractors properly tracked and reported required information in accordance with OMB guidance and transparency goals of the Recovery Act. Therefore, this report contains no recommendations.

Appendix A. Scope and Methodology

We conducted this audit from January 2010 through September 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

We made a nonstatistical selection of three Recovery Act projects at two locations for review at the USACE Huntington District. These projects included four contract modifications and two task orders. The projects used \$42.7 million in Recovery Act appropriations. We reviewed one project at Bluestone Dam, WV. The purpose of this project was to install additional anchors in critical sections of the Bluestone Dam to increase the flood control capacity. We also reviewed two projects at Muskingum River Lakes, OH. The first project was to purchase and install an additional pump and backup generator at Zoar Levee Pump Station, Zoar Levee, OH. The second project was to add rip rap to the Beach City Dam in Beach City, OH. The rip rap is designed to prevent erosion, and to reduce the risk of failure and future maintenance costs.

To accomplish our objective, we audited the planning, funding, initial execution, and tracking and reporting of Recovery Act projects to determine whether the USACE Huntington District complied with Recovery Act requirements, OMB guidance, the FAR, and DOD implementing guidance. Specifically, we determined whether:

- the selected projects were adequately planned to ensure the appropriate use of Recovery Act funds (Planning);
- funds were awarded and distributed in a prompt, fair, and reasonable manner (Funding);
- contracts contained required Recovery Act FAR clauses (Execution); and
- recipients' use of funds was transparent to the public and the benefits of the funds were clearly, accurately, and timely reported (Tracking and Reporting).

Before selecting DOD Recovery Act projects for audit, the Quantitative Methods and Analysis Division (QMAD) of the DOD Office of Inspector General analyzed all DOD agency-funded projects, locations, and contracting oversight organizations to assess the risk of fraud, waste, and abuse associated with each project. QMAD selected most audit projects and locations using a modified Delphi technique, which allowed us to quantify the risk based on expert auditor judgment, and other quantitatively developed risk indicators. QMAD used information collected from all projects to update and improve the risk assessment model. QMAD selected 83 projects with the highest risk rankings; auditors chose some additional projects at the selected locations.

QMAD used additional predictive analytic techniques for two other special cases: (1) projects performed jointly with State National Guard units in the 50 States, and (2) public works projects funded directly through USACE. QMAD factored in workload volume, proposed costs, geographic districts, and USACE districts and regions in evaluating the relative risk of problems with oversight and completion.

QMAD did not use classical statistical sampling techniques that would permit generalizing results to the total population because there were too many potential variables with unknown parameters at the beginning of this analysis. The predictive analytic techniques employed provided a basis for logical coverage not only of Recovery Act dollars being expended, but also of types of projects and types of locations across the Military Services, Defense agencies, State National Guard units, and public works projects managed by USACE.

Use of Computer-Processed Data

We obtained hard-copy documentation from the Federal Procurement Data System, Excluded Parties List System, Central Contractor Registration System, Federal Business Opportunities Web site, and Corps of Engineers Financial Management System. We validated data from these computer systems by comparing the data to hard-copy documentation related to the projects selected for review. We also interviewed program officials responsible for reporting on Recovery Act contract actions and for managing Recovery Act funding. From these procedures we concluded that the data we reviewed was sufficiently reliable for our purposes.

Prior Audit Coverage

The Government Accountability Office, the DOD Inspector General, and the Military Departments have issued reports and memoranda discussing DOD projects funded by the Recovery Act. You can access unrestricted reports at www.recovery.gov/accountability.

Appendix B. Recovery Act Criteria and Guidance

The following list includes the primary Recovery Act criteria and guidance (notes appear at the end of the list):

- U.S. House of Representatives Conference Committee Report 111-16, “Making Supplemental Appropriations for Job Preservation and Creation, Infrastructure Investment, Energy Efficiency and Science, Assistance to the Unemployed, and State and Local Fiscal Stabilization, for the Fiscal Year Ending September 30, 2009, and for Other Purposes,” February 12, 2009
- Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” February 17, 2009
- OMB Memorandum M-09-10, “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009
- OMB Bulletin No. 09-02, “Budget Execution of the American Recovery and Reinvestment Act of 2009 Appropriations,” February 25, 2009
- White House Memorandum, “Government Contracting,” March 4, 2009
- White House Memorandum, “Ensuring Responsible Spending of Recovery Act Funds,” March 20, 2009
- OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009¹
- OMB Memorandum M-09-16, “Interim Guidance Regarding Communications With Registered Lobbyists About Recovery Act Funds,” April 7, 2009
- OMB Memorandum M-09-19, “Guidance on Data Submission under the Federal Funding Accountability and Transparency Act (FFATA),” June 1, 2009
- OMB Memorandum M-09-21, “Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009,” June 22, 2009²
- OMB Memorandum M-09-24, “Updated Guidance Regarding Communications with Registered Lobbyists About Recovery Act Funds,” July 24, 2009
- OMB Memorandum M-09-30, “Improving Recovery Act Recipient Reporting,” September 11, 2009

- OMB Office of Federal Procurement Policy, “Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11,” September 30, 2009²
- OMB Memorandum M-10-05, “Improving Compliance in Recovery Act Recipient Reporting,” November 30, 2009
- OMB Memorandum M-10-08, “Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates,” December 18, 2009²
- OMB Memorandum M-10-14, “Updated Guidance on the American Recovery and Reinvestment Act,” March 22, 2010²
- White House Memorandum, “Combating Noncompliance with Recovery Act Reporting Requirements,” April 6, 2010²
- OMB Memorandum M-10-17, “Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act,” May 4, 2010

Notes

¹ Document provides Government-wide guidance for carrying out programs and activities enacted in the American Recovery and Reinvestment Act of 2009. The guidance states that the President’s commitment is to ensure that public funds are expended responsibly and in a transparent manner to further job creation, economic recovery, and other purposes of the Recovery Act.

² Document provides Government-wide guidance for carrying out the reporting requirements included in section 1512 of the Recovery Act. The reports will be submitted by recipients beginning in October 2009 and will contain detailed information on the projects and activities funded by the Recovery Act.

Appendix C: Required FAR Clauses Included in Recovery Act Contracts

	Bluestone Dam, WV	Zoar Levee Pump Station, OH	Beach City Dam, OH
FAR Clauses as Required	Increase Dam Safety	Purchase and Install Pump and Generator	Purchase and Install Riprap Protection
FAR 52.203-15 Whistleblower Protection	Y	Y	Y
FAR 52.204-11 Recovery Act Reporting Requirements	Y	Y	Y
FAR 52.212-4 Contract Terms and Conditions- Commercial Items	N/A	N/A	N/A
FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders- Commercial Items	N/A	N/A	N/A
FAR 52.213-4 Terms and Conditions- Simplified Acquisitions	N/A	N/A	N/A
FAR 52.214-26 Audit and Records- Sealed Bidding	N/A	N/A	N/A
FAR 52.215-2 Audit and Records- Negotiation	N/A	N/A	N/A
FAR 52.222-6 Davis-Bacon Act	Y	Y	Y
FAR 52.244-6 Subcontracts for Commercial Items and Commercial Components	N/A	N/A	N/A
FAR 52.225-21-24 Use of American Iron, Steel, and Other Manufactured Goods and Buy American	Y	Y	Y

Y = Yes N/A = Not applicable



Inspector General Department *of* Defense

